

# HOUSE BILL 834

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By: **Chair, Judiciary Committee (By Request – Departmental – Human Resources)**

Introduced and read first time: February 9, 2012

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Child Welfare – Alternative Response**

3 FOR the purpose of authorizing the Secretary of Human Resources to establish an  
4 alternative response program for certain reports of child abuse or neglect;  
5 requiring the Department to establish an advisory council to participate in the  
6 development of the alternative response implementation plan; prohibiting  
7 certain reports of child abuse or neglect from being assigned for an alternative  
8 response; authorizing certain reports assigned for an alternative response to be  
9 reassigned for an immediate investigation based on certain factors; authorizing  
10 certain reports assigned for an investigation to be reassigned for an alternative  
11 response based on certain factors; requiring a local department to take certain  
12 actions following a report assigned for an alternative response; providing for the  
13 confidentiality and maintenance of certain records; requiring the Social Services  
14 Administration of the Department to develop a certain data collection process;  
15 requiring the Department to submit a certain assessment and recommendations  
16 to the General Assembly; defining a certain term; and generally relating to  
17 alternative response plans with respect to reports of child abuse and neglect.

18 BY repealing and reenacting, with amendments,  
19 Article – Family Law  
20 Section 5–706  
21 Annotated Code of Maryland  
22 (2006 Replacement Volume and 2011 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article – Family Law**

26 5–706.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (a)   **(1)**   **IN THIS SECTION, “ALTERNATIVE RESPONSE” MEANS A**  
2 **COMPONENT OF THE CHILD PROTECTIVE SERVICES PROGRAM THAT PROVIDES**  
3 **FOR A COMPREHENSIVE ASSESSMENT OF:**

4                   **(I)**   **RISK OF HARM TO THE CHILD;**

5                   **(II)**   **RISK OF SUBSEQUENT CHILD ABUSE OR NEGLECT;**

6                   **(III)**   **FAMILY STRENGTHS AND NEEDS; AND**

7                   **(IV)**   **THE PROVISION OF OR REFERRAL FOR NECESSARY**  
8 **SERVICES.**

9           **(2)**   **“ALTERNATIVE RESPONSE” DOES NOT INCLUDE:**

10                   **(I)**   **AN INVESTIGATION; OR**

11                   **(II)**   **A FORMAL DETERMINATION AS TO WHETHER CHILD**  
12 **ABUSE OR NEGLECT HAS OCCURRED.**

13           **(B)**    Promptly after receiving a report of suspected abuse or neglect of a child  
14 who lives in this State that is alleged to have occurred in this State, the local  
15 department or the appropriate law enforcement agency, or both, if jointly agreed on,  
16 shall make a thorough investigation of a report of suspected abuse or neglect to protect  
17 the health, safety, and welfare of the child or children.

18           **[(b)] (C)**    Within 24 hours after receiving a report of suspected physical or  
19 sexual abuse of a child who lives in this State that is alleged to have occurred in this  
20 State, and within 5 days after receiving a report of suspected neglect or suspected  
21 mental injury of a child who lives in this State that is alleged to have occurred in this  
22 State, the local department or the appropriate law enforcement agency shall:

23                   (1)    see the child;

24                   (2)    attempt to have an on–site interview with the child’s caretaker;

25                   (3)    decide on the safety of the child, wherever the child is, and of other  
26 children in the household; and

27                   (4)    decide on the safety of other children in the care or custody of the  
28 alleged abuser.

29           **[(c)] (D)**    The investigation under subsection **[(b)] (C)** of this section shall  
30 include:

1                   (1)     a determination of the nature, extent, and cause of the abuse or  
2 neglect, if any;

3                   (2)     if mental injury is suspected, an assessment by two of the  
4 following:

5                           (i)     a licensed physician, as defined in § 14–101 of the Health  
6 Occupations Article;

7                           (ii)    a licensed psychologist, as defined in § 18–101 of the Health  
8 Occupations Article; or

9                           (iii)  a licensed social worker, as defined in § 19–101 of the Health  
10 Occupations Article; and

11                   (3)     if the suspected abuse or neglect is verified:

12                           (i)     a determination of the identity of the person or persons  
13 responsible for the abuse or neglect;

14                           (ii)    a determination of the name, age, and condition of any other  
15 child in the household;

16                           (iii)  an evaluation of the parents and the home environment;

17                           (iv)   a determination of any other pertinent facts or matters; and

18                           (v)    a determination of any needed services.

19           **[(d)] (E)**     On request by the local department, the local State’s Attorney shall  
20 assist in an investigation under subsections **[(b) and (c)] (C) AND (D)** of this section.

21           **[(e)] (F)**     The local department, the appropriate law enforcement agencies,  
22 the State’s Attorney within each county and Baltimore City, the local department’s  
23 office responsible for child care regulation, and the local health officer shall enter into  
24 a written agreement that specifies standard operating procedures for the investigation  
25 under subsections **[(b) and (c)] (C) AND (D)** of this section and prosecution of reported  
26 cases of suspected abuse or neglect.

27           **[(f)] (G)**     (1)     The agencies responsible for investigating reported cases of  
28 suspected sexual abuse, including the local department, the appropriate law  
29 enforcement agencies, and the local State’s Attorney, shall implement a joint  
30 investigation procedure for conducting joint investigations of sexual abuse under  
31 subsections **[(b) and (c)] (C) AND (D)** of this section.

1 (2) The joint investigation procedure shall:

2 (i) include appropriate techniques for expediting validation of  
3 sexual abuse complaints;

4 (ii) include investigation techniques designed to:

5 1. decrease the potential for physical harm to the child;  
6 and

7 2. decrease any trauma experienced by the child in the  
8 investigation and prosecution of the case; and

9 (iii) establish an ongoing training program for personnel  
10 involved in the investigation or prosecution of sexual abuse cases.

11 ~~[(g)]~~ **(H)** (1) To the extent possible, an investigation under subsections  
12 ~~[(b) and (c)]~~ **(C) AND (D)** of this section shall be completed within 10 days after receipt  
13 of the first notice of the suspected abuse or neglect by the local department or law  
14 enforcement agencies.

15 (2) An investigation under subsections ~~[(b) and (c)]~~ **(C) AND (D)** of this  
16 section ~~[which]~~ **THAT** is not completed within 30 days shall be completed within 60  
17 days of receipt of the first notice of the suspected abuse or neglect.

18 ~~[(h)]~~ **(I)** Within 10 days after the local department or law enforcement  
19 agency receives the first notice of suspected abuse of a child who lives in this State  
20 that is alleged to have occurred in this State, the local department or law enforcement  
21 agency shall report to the local State's Attorney the preliminary findings of the  
22 investigation.

23 ~~[(i)]~~ **(J)** Within 5 business days after completion of the investigation of  
24 suspected abuse of a child who lives in this State that is alleged to have occurred in  
25 this State, the local department and the appropriate law enforcement agency, if that  
26 agency participated in the investigation, shall make a complete written report of its  
27 findings to the local State's Attorney.

28 ~~[(j)]~~ **(K)** Promptly after receiving a report of suspected abuse or neglect of a  
29 child who lives in this State that is alleged to have occurred outside of this State, the  
30 local department shall:

31 (1) forward the report to the appropriate agency outside of this State  
32 that is authorized to receive and investigate reports of suspected abuse or neglect;

33 (2) cooperate to the extent requested with the out-of-state agency  
34 investigating the report; and

1 (3) if determined appropriate by the local department:

2 (i) interview the child to assess whether the child is safe; and

3 (ii) provide services to the child and the child's family.

4 (L) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE  
5 SECRETARY MAY IMPLEMENT AN ALTERNATIVE RESPONSE PROGRAM FOR  
6 SELECTED REPORTS OF CHILD ABUSE OR NEGLECT.

7 (M) THE DEPARTMENT SHALL CONVENE AN ADVISORY COUNCIL  
8 CONSISTING OF STAKEHOLDERS AND REPRESENTATIVES FROM LOCAL  
9 DEPARTMENTS OF SOCIAL SERVICES TO DEVELOP THE ALTERNATIVE RESPONSE  
10 IMPLEMENTATION PLAN.

11 (N) A REPORT OF CHILD ABUSE OR NEGLECT IN WHICH THERE IS A LOW  
12 RISK OF HARM TO THE CHILD MAY BE CONSIDERED FOR AN ALTERNATIVE  
13 RESPONSE.

14 (O) A REPORT THAT IS NOT ASSIGNED FOR AN ALTERNATIVE RESPONSE  
15 SHALL BE ASSIGNED FOR INVESTIGATION IN ACCORDANCE WITH THIS SECTION.

16 (P) THE FOLLOWING REPORTS OF SUSPECTED CHILD ABUSE OR  
17 NEGLECT MAY NOT BE ASSIGNED FOR AN ALTERNATIVE RESPONSE:

18 (1) CHILD SEXUAL ABUSE; AND

19 (2) CHILD ABUSE OR NEGLECT:

20 (I) RESULTING IN DEATH OR SERIOUS PHYSICAL OR  
21 MENTAL INJURY; OR

22 (II) WHEN, IN THE PREVIOUS 3 YEARS, THE INDIVIDUAL  
23 SUSPECTED OF CHILD ABUSE OR NEGLECT HAS BEEN IDENTIFIED AS  
24 RESPONSIBLE FOR CHILD ABUSE OR NEGLECT AS DOCUMENTED IN THE  
25 RECORDS OF THE LOCAL DEPARTMENT.

26 (Q) A REPORT ASSIGNED FOR AN ALTERNATIVE RESPONSE MAY BE  
27 REASSIGNED AT ANY TIME FOR AN IMMEDIATE INVESTIGATION BASED ON ANY  
28 OF THE FOLLOWING FACTORS AND CIRCUMSTANCES:

29 (1) A REASSESSMENT OF THE REPORT OR RELEVANT FACTS;

1           **(2) A DETERMINATION THAT THE CASE SATISFIES A CRITERION IN**  
2 **SUBSECTION (P) OF THIS SECTION; OR**

3           **(3) A FAMILY'S REFUSAL TO COOPERATE, WHICH MAY INCLUDE:**

4                   **(I) REFUSAL TO PROVIDE OR AUTHORIZE THE RELEASE OF**  
5 **INFORMATION NECESSARY TO COMPLETE THE ALTERNATIVE RESPONSE;**

6                   **(II) REFUSAL TO ACCEPT SERVICES THAT WOULD DECREASE**  
7 **THE RISK OF CHILD ABUSE OR NEGLECT OR HAVE AN IMPACT ON CHILD SAFETY;**

8                   **(III) AN INABILITY TO ACTIVELY PARTICIPATE IN THE**  
9 **ALTERNATIVE RESPONSE; OR**

10                   **(IV) A REQUEST BY A FAMILY MEMBER FOR AN**  
11 **INVESTIGATION INSTEAD OF AN ALTERNATIVE RESPONSE.**

12           **(R) A REPORT ASSIGNED FOR AN INVESTIGATION MAY BE REASSIGNED**  
13 **FOR AN ALTERNATIVE RESPONSE AT ANY TIME BASED ON:**

14                   **(1) A REASSESSMENT OF THE REPORT OR RELEVANT FACTS;**

15 **AND**

16                   **(2) A DETERMINATION THAT ACCEPTED SERVICES WOULD**  
17 **ADDRESS ALL ISSUES OF RISK OF CHILD ABUSE OR NEGLECT AND CHILD**  
18 **SAFETY.**

19           **(S) WHEN A CASE IS REFERRED FOR AN ALTERNATIVE RESPONSE, THE**  
20 **LOCAL DEPARTMENT SHALL:**

21                   **(1) MEET WITH THE CHILD AND THE CHILD'S PARENT OR**  
22 **PRIMARY CARETAKER WITHIN 24 HOURS OF RECEIVING A REPORT OF PHYSICAL**  
23 **ABUSE;**

24                   **(2) MEET WITH THE CHILD AND THE CHILD'S PARENT OR**  
25 **PRIMARY CARETAKER WITHIN 5 DAYS OF RECEIVING A REPORT OF NEGLECT;**

26                   **(3) ADVISE THE APPROPRIATE LAW ENFORCEMENT AGENCY THAT**  
27 **THE REPORT HAS BEEN ASSIGNED FOR AN ALTERNATIVE RESPONSE;**

28                   **(4) INFORM THE INDIVIDUAL SUSPECTED OF CHILD ABUSE OR**  
29 **NEGLECT OF THE ALLEGATIONS MADE AGAINST THE INDIVIDUAL IN A MANNER**

1 CONSISTENT WITH LAWS PROTECTING THE RIGHTS OF THE PERSON WHO MADE  
2 THE REPORT;

3 (5) COMPLETE AN ALTERNATIVE RESPONSE WITHIN 60 DAYS  
4 AFTER THE RECEIPT OF THE REPORT; AND

5 (6) WITHIN 10 DAYS AFTER COMPLETING THE ALTERNATIVE  
6 RESPONSE, PROVIDE A WRITTEN REPORT TO THE FAMILY MEMBERS WHO ARE  
7 PARTICIPATING IN THE ALTERNATIVE RESPONSE PLAN AS TO WHETHER AND  
8 WHAT SERVICES ARE NECESSARY TO ADDRESS:

9 (I) THE SAFETY OF THE CHILD AND OTHER FAMILY  
10 MEMBERS; AND

11 (II) THE RISK OF SUBSEQUENT CHILD ABUSE OR NEGLECT.

12 (T) THE LOCAL DEPARTMENT:

13 (1) SHALL MAINTAIN COMPLETE RECORDS RELATED TO AN  
14 ALTERNATIVE RESPONSE AND SERVICES FOR 3 YEARS AFTER THE REPORT WAS  
15 RECEIVED;

16 (2) MAY NOT USE OR DISCLOSE RECORDS RELATED TO AN  
17 ALTERNATIVE RESPONSE FOR PURPOSES OF RESPONDING TO A REQUEST FOR  
18 BACKGROUND INFORMATION FOR EMPLOYMENT OR VOLUNTARY SERVICES; AND

19 (3) SHALL PROTECT FROM DISCLOSURE RECORDS RELATED TO  
20 AN ALTERNATIVE RESPONSE IN ACCORDANCE WITH § 1-202 OF THE HUMAN  
21 SERVICES ARTICLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Social Services  
23 Administration in the Maryland Department of Human Services shall develop a data  
24 collection process to assess the impact of alternative response in the areas of child  
25 safety, timeliness of response, timeliness of service, coordination and provision of local  
26 human services, cost-effectiveness, record keeping, and any other significant related  
27 issues.

28 SECTION 3. AND BE IT FURTHER ENACTED, That on or before October 1,  
29 2014, the Department of Human Resources shall submit to the General Assembly its  
30 preliminary assessment of, and recommendations for, the alternative response  
31 program established in this Act.

**HOUSE BILL 834**

1           SECTION 4. AND BE IT FURTHER ENACTED, That the Department of  
2 Human Resources may begin actual implementation of alternative response in local  
3 departments of social services no earlier than July 1, 2013.

4           SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2012.